

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *AC* D.C.

AUG 15 PM 3:21

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TN, MEMPHIS

INVENTORY LOCATOR SERVICE,

Plaintiff,

vs.

PARTSBASE, INC.,

Defendant.

No. 02-2695-MaV

ORDER

On August 12, 2005, the court received a letter Randall D. Noel, counsel for plaintiff, requesting a hearing be held on plaintiff's June 20, 2005 Motion to Dismiss Defendant Partsbase's Counterclaims Due to Spoliation of Evidence which has been referred to the magistrate judge for a report and recommendation.

Counsel is cautioned that it is not appropriate for a party to initiate an ex parte communication with a judge or magistrate judge. Local Rule 83.5(a) provides, in pertinent part, as follows: "A copy of all letters sent to a judge shall also be sent to all other counsel involved in the action (or any party acting pro se) and to the Clerk of the Court." Nothing on the face of counsel's letter indicates that a copy was sent to defense counsel and to the Clerk. The Clerk is ORDERED to file the letter, and plaintiff's

counsel is ORDERED to send defense counsel a copy of his letter and to file a certificate of service with the Clerk.

IT IS SO ORDERED this 15th day of August, 2005.

A handwritten signature in cursive script, reading "Diane K. Vesco", written in black ink.

DIANE K. VESCOVO

UNITED STATES MAGISTRATE JUDGE

ATTORNEYS AT LAW
ARMSTRONG ALLEN
PLLC

August 11, 2005

RECEIVED

The Honorable Diane K. Vescovo
United States Magistrate Judge
Western District of Tennessee
Western Division
341 Clifford Davis Federal Building
167 North Main Street
Memphis, TN 38103

AUG 12 2005

Diane K. Vescovo
U.S. Magistrate Judge

Re: Inventory Locator Service, LLC vs. Partsbase, Inc.
Civil Action No. 02-2695-Ma V

Dear Judge Vescovo:

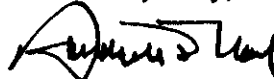
I am the local counsel for Inventory Locator Service, LLC ("ILS") in the above-captioned matter. As you are aware, Judge Mays has recently entered an order referring ILS's Motion to Dismiss Defendant Partsbase's Counterclaims Due to Spoliation of Evidence.

Although I recognize that the Local Rules provide that the mechanism for requesting a hearing on a motion is to do so either in the motion itself or in the response to the motion, the purpose of this letter is to request that this Court hold a hearing on ILS's motion, which raises very important issues in this litigation.

In addition to the original motion and brief in support filed by ILS, and the response in opposition filed by Defendant Partsbase, Inc. ("Partsbase") there have been further filings in the form of a reply brief filed by ILS, and a surreply filed by Partsbase. In lieu of filing a response to the surreply, which we expect would simply perpetuate even further briefing by Partsbase, we believe that the scheduling of a hearing on this critically important motion would be a productive and efficient endeavor for both the parties and the Court.

Thank you for your consideration of this matter.

Yours very truly,



Randall D. Noel

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Notice of Distribution

This notice confirms a copy of the document docketed as number 170 in case 2:02-CV-02695 was distributed by fax, mail, or direct printing on August 18, 2005 to the parties listed.

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Honorable Samuel Mays
US DISTRICT COURT